

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JUL 13 2011

JULIA C. DUBLEY, CLERK  
BY:   
DEPUTY CLERK

MARK TODD SHOWALTER,  
Plaintiff,

Civil Action No. 7:11-cv-00333

v.

MEMORANDUM OPINION

JOHN JABE, et al.,  
Defendants.

By: Samuel G. Wilson  
United States District Judge

Plaintiff Mark Todd Showalter, a Virginia inmate proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983. This court has dismissed three previous actions filed by Showalter pursuant to 28 U.S.C. § 1915A(b)(1).<sup>1</sup> Therefore, Showalter may not proceed with this action unless he either pays the \$350.00 filing fee or shows that he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

As Showalter has neither prepaid the filing fee nor demonstrated that he is “under imminent danger of serious physical injury,”<sup>2</sup> the court dismisses his complaint without prejudice.<sup>3</sup>

The Clerk is directed to send a certified copy of this Memorandum Opinion and accompanying Order to plaintiff.

ENTER: This 13<sup>th</sup> day of July, 2011.

  
United States District Judge

<sup>1</sup> See Showalter v. Johnson, Civil Action No. 7:08cv00276 (W.D. Va. Oct. 29, 2009) (dismissed as frivolous and for failure to state a claim under 28 U.S.C. § 1915A(b)(1)); Showalter v. Commission, Civil Action No. 7:96cv00127 (W.D. Va. Feb. 8, 1996) (dismissed as frivolous under 28 U.S.C. § 1915(d)); Showalter v. Dir., Dep't of Corr., Civil Action No. 7:96cv00113 (W.D. Va. Feb. 6, 1996) (dismissed as frivolous under 28 U.S.C. § 1915(d)).

<sup>2</sup> In his 194-page complaint against 31 defendants, Showalter alleges that all 31 defendants failed to protect him from an assault by another inmate. Showalter alleges that he never did anything to the other inmate to cause the assault and that “all of the defendants know that.” He argues that the other inmate and defendants were “trying to make a homosexual and sex slave out of [him].” The court has previously warned Showalter about filing abusive litigation, see Showalter v. Johnson, Civil Action No. 7:08cv00276 (W.D. Va. Oct. 29, 2009) (memorandum opinion and order entered May 12, 2009), and now warns Showalter again. If Showalter continues to file such frivolous cases, the court may impose sanctions.

<sup>3</sup> The court has previously notified Showalter that he may not file civil actions in this court unless he either pays the filing fee or demonstrates that he is under imminent danger of serious physical injury. Therefore, the court will not give Showalter additional time to pay the filing fee or amend his complaint.